

### REMARKS

A telephonic discussion was held on January 10, 2006 between the undersigned and the Examiner. During the discussion, the Examiner and the undersigned discussed the operation of the claimed invention, and the Examiner pointed out that although the specification of the application discloses the simultaneous operation of the heating elements of the oven, the Examiner did not feel that the claims adequately reflected this aspect of the claimed invention.

In response to the Office Action mailed August 11, 2005, Applicant respectfully requests reconsideration of the rejection of the claim in view of the foregoing new claims and the remarks set forth below.

#### In the Claims

This application has been carefully reviewed in light of the Office Action mailed August 11, 2005. Claims 9-19 are pending in the application. Claim 9 has been amended. Claims 9-19 have been rejected under 35 U.S.C. § 103 in view of the references cited below. In light of the following remarks, Applicant respectfully submits that claims 9-19 are allowable over the prior art of record cited by the Examiner.

Applicants respectfully submit that neither U.S. Patent No. 3,639,727 issued to Leach ("Leach"), U.S. Patent No. 5,883,362 issued to Pettibone, et al. ("Pettibone"), nor U.S. Patent No. 6,262,396 issued to Witt, et al. ("Witt"), teach, disclose or suggest the subject matter claimed by applicant. Claim 9 has been amended to include that "the at least one programmed cooking sequence utilizes both the first upper heating element and the lower heating element during the specified time period," and that "the first temperature set point is lower than the second temperature set point." None of the references cited by the Examiner, either alone or in combination, disclose the subject matter of Claim 9.

For example, Leach simply discloses a "door lock thermostat" that enables a user to bypass the normal thermostat, which typically "opens" or shuts off power to the heating elements at a temperature between 560F and 600F. By configuring the door lock thermostat such that the user can bypass the standard thermostat, the oven can exceed the standard thermostat heating

limit for oven "cleaning." *See* Leach, Col. 1, ll. 39-55. The Examiner acknowledges that Leach fails to disclose a programmable oven controller. Office Action, Jan. 11, 2005, at 2.

The Examiner cites Pettibone as disclosing upper and lower heating elements that may be used in various combinations through the use of a programmable controller. *See id.* However, Pettibone teaches away from the subject matter of Claim 9, as amended, by stating that the problem sought to be overcome is the need to cook food at a constant rate regardless of the ambient temperature of the oven at the time cooking commences. *See* Pettibone, Col. 7, ll. 38-47. Thus Pettibone fails to teach or suggest utilizing a first temperature set point that is directly correlated to the lower heating element, a second temperature set point that corresponds to the first upper heating element, and that the established temperature set point for the first temperature set point is lower than the second temperature set point. Thus, Pettibone actually teaches away from the use of a first temperature set point and a second temperature set point, and rather focuses on the internal temperature of the oven as a parameter that can be used, through the shutting off of various lamps within the oven, to maintain constant cooking time of a food item.

Similarly, Witt teaches an oven with heating elements that cycle on and off, but fails to teach that one of the elements, such as the lower element in Applicant's claim 9, is specifically correlated to a temperature set point of any type, or that another heating element is specifically correlated to a second, separate temperature set point. Thus, Witt, just as in the case of Leach and Pettibone, fails to teach the subject matter of Applicant's Claim 9. Accordingly, Applicant respectfully submits that Claim 9, together with Claims 10-19 that depend therefrom, are allowable over the references cited. Applicant therefore requests favorable action in this case.

Enclosed is a \$510.00 check for the Petition for Three-Month Extension of Time fee. No other fees are believed due. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Applicant : Edward E. Stockley  
Serial No. : 10/764,709  
Filed : January 26, 2004  
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Attorney's Docket No.: 16725-010002

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Decker A. Cammack', is written over a horizontal line.

Decker A. Cammack  
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Date: February 10, 2006

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